

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

RUTH ESPERANCE,  Plaintiff,  v.  THOMAS J. VILSACK, <sup>1</sup> Secretary of Agriculture, U.S. Department of Agriculture,  Defendant.	5:20-cv-05055-LLP  <b>DEFENDANT’S MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT</b>
---	---

Defendant, by and through counsel, United States Attorney Alison J. Ramsdell, and Assistant United States Attorney Michael S. Hofmann, moves to dismiss/strike allegations against Brian Ferebee from the judicial complaint for lack of subject matter jurisdiction pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(h)(3) and for summary judgment dismissing the Complaint in its entirety pursuant to Federal Rule of Civil Procedure 56 and D.S.D. Civ. LR 56.1.

This motion is supported by the Brief in Support of Defendant’s Motion to Dismiss and Motion for Summary Judgment, Defendant’s Statement of Undisputed Material Facts, and the Declarations of Tracy Anderson, Anne Apodaca, Michael S. Hofmann, Brian Jackson, Scott Jacobson, Steven Kozel, Jerome Krueger, Twila Morris, Julie Nelson, and Mark Van Every, with attached exhibits.

---

<sup>1</sup> On February 23, 2021, Thomas J. Vilsack became the Secretary of Agriculture and is automatically substituted for Sonny Perdue as the defendant in this case. *See* Fed. R. Civ. P. 25(d).

Dated this 3rd day of April, 2023.

ALISON J. RAMSDELL  
United States Attorney

/s/ Michael S. Hofmann  
Michael S. Hofmann  
Assistant United States Attorney  
515 Ninth Street, Suite 201  
Rapid City, SD 57701  
Phone: (605) 342-7822  
Fax: (605) 342-1108  
Michael.Hofmann@usdoj.gov